Research proposal Form of the Thesis Entitled

Judicial Decision-Making and Political Inclination of the Indian Higher Judiciary – A Case Study Approach

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By

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1. INTRODUCTION

Man is a political animal, and so are the judges because they are also human beings and have their individual opinions. They are supposedly influenced by factors like how they were raised since childhood, whether they have had any government-empanelled counsel or not, or whether they have any political history or otherwise. Over the past few years, research scholars, political science students, and members of civil society have opined that the Indian higher judiciary is not completely free from politics. Issues like the selection of judges in the higher judiciary, the timing of judgements that are politically sensitive in concurrence with the retirement of the judge, contesting elections by the retired judges, or holding any public office post-retirement raise significant concerns regarding the fairness and independence of the judiciary.

Judges should make decisions based on principles laid down by our Constitution, but if judges of the higher judiciary are politically inclined to the ruling government, they are supposed to align with the political objective of that ruling government. There remains ample of scope that judge's political inclination will influence the outcome of the judgement.

Judges being a human being may have personal political ideologies preferences; however, these preferences should not be allowed to ride over their judicial mind and dictate the judgement.

Further, the collegium system's lack of transparency in how a judge is selected in the higher judiciary. It's hard to tell if the courts are independent or if politics is getting in the way of in the collegium system.

2. SIGNIFICANCE OF THE STUDY & PROBLEM STATEMENT

Although politicization of the judiciary is very serious, most academic discussions in India focus on doctrinal analysis. There aren't many studies conducted that investigate the politicization of the judiciary in an analytical manner.

It is imperative to distinctly study the political affiliation of the higher judiciary and its influence in the decision-making process of the judges to come up with reformative suggestion to enhance judiciary's independence and credibility.

There has been a lot of theoretical and doctrinal research on judicial activism in India. However, there hasn't been enough research on how judges' political affiliation affects how they perform their task.

3. SCOPE OF THE STUDY

This study will look at how a judge's political inclination affects their rulings in the Indian higher judiciary. This study tends add value to the public discussion about the independence and neutrality of the judicial system by looking at case studies and judicial nominations throughout a specific decade. The goal of this research is to create a mechanism for understanding the term 'political affiliation' in the judiciary. The principle of access to justice depends on the fact that everyone should have equal access to legal remedies that are accessible and fair. The goal of this research paper is to analyse if there is any political inclination of judges of our higher judiciary which is prejudicial to the justice delivery system and public trust over it.

This study seeks to look at judicial independence in an analytical way by looking at the judicial decision-making process of Justice Ranjan Gogoi, Justice Dipak Misra, and Justice Arun Kumar Mishra. Social activists, legislatures, members of law commissions, legal experts can refer this analytical study to prevent any conduct of judges which is detrimental to the judiciary system. This study is important for society because it further adds value to a

topic of legal research which is not a cup of tea for everyone. It gives an analytical view on how judges have made decision and how far their conduct has effected the judicial system. It adds value into the current body of Indian legal academia by combining doctrinal research with real-life case study analysis.

4. LITERATURE REVIEW

1) Tikhe, S. (2022). Judges and Judicial Accountability. In V. Chitnis, *Judicial Process* (pp. 237-257). Aarti & Co.

This work is significant because it addresses the primary challenge faced by the Nation in ensuring judicial independence, particularly regarding politically sensitive matters. Tikhe emphasizes the need of transparency in a judiciary. He offered a theoretical and ethical framework for understanding the judicial overreach. Tikhe analyses the interplay between judicial accountability and judicial independence. His study analyses the democratic tension that arises when the judiciary nullifies or alters the governmental actions. It emphasizes the significance of maintaining judicial impartiality to ensure judicial accountability.

This study is relevant for conducting this research as it investigates the politicization of the higher court and examines the influence of politics on judicial behaviour. Nonetheless, Tikhe's analysis fails to examine institutional frameworks which are relevant to ensure judicial transparency, such as judicial performance, transparent judge's selection process in the higher judiciary, or the judges disciplinary.

2) Varhadi, R. (2022). Independence of Judiciary. In V. Chitnis, *Judicial Process* (pp. 31-52). Aarti & Co.

The author looks at how freedom, parliamentary democracy, and the independence of the courts and lawyers are all connected. He says that real judicial independence is most at risk when there is political unrest, because the judiciary is under pressure to follow the political narratives that are popular at the time.

This paper is important because it explains the moral and structural bases that are necessary for a democracy to work. It also provokes a thought on how important an independent Bar Association of Advocates is to protect the constitutional values. This is important to my research because it shows how the office bearers of a bar association interfere with the judicial decision-making process which could effect judicial independence and public trust, which is a major point of contention of this research process.

3) Thool, C. (2022). Independence of Judiciary - Need for Reforms. In V. Chitnis, *Judicial Process* (pp. 53-73). Aarti & Co.

This author critically studied the procedural and institutional barriers that effect the independent judicial decision-making powers of judges in India. He focuses on how political appointments have affected the judiciary. The bias has greatly affected the credibility and neutrality of the courts and there is a need to reform it.

Thool's research shows that not-transparent selection process in the judiciary has adversely affected the constitutional safeguard and diminished the public trust, which is necessary for any democracy to be legitimate. This work gives information on political influence in higher judiciary. It also supports the claim the presence of bias in the judiciary. It gives notes on how politicization starts with nominations and how it affects judges to act in politically charged cases.

Thool suggests that the jury system could help restore fairness, but this idea doesn't work in the Indian court system, which is quite formal and competitive. This research argues for reforming the collegium system and establishing an independent judicial commission.

This is important for my research paper because it helps me relate judicial biasness with the selection process of judges in the higher judiciary. However, Thool ignores the practical problems with the collegium system in India whereas my research will look at its reforms for eroding the opacity of selection process.

4) Verney, D. V. (2008). The Struggle Over Judicial Review: Supreme Court and Limited Government. In B. Dua, M. P. Singh, & R. Saxena, *Indian Judiciary and Politics - The Changing Landscape* (pp. 41-72). Manohar.

Verney (2008) looks at judicial review in five different geopolitical models: British, American, colonial, Canadian, and Indian. He focuses on how each system has changed over time in response to political instability or failure of government. His work shows how important the court is in dealing with constitutional problems and making sure that legislative power is limited. This study is important for understanding how judicial review has changed around the world. It also gives us a way to look at how the Indian judiciary has changed over time in the context of other democratic traditions.

This relates to my research because it puts India's parliamentary judicial review procedure in a comparative context, which makes it easier to look at its unique problems and benefits.

Even while Verney's taxonomy is very detailed, it doesn't do much to explain what these models mean for Indian politics right now. My research looks closely at how India's judicial

review has changed in practice since the 1990s, especially in light of the growing divide between political parties.

5) Dhavan, R. (2008). Governance by Judiciary: Into the Next Millenium. In B. Dua, M. P. Singh, & R. Saxena, *Indian Judiciary and Politics: The Changing Landscape* (pp. 73-105). Manohar.

Dhavan (2008) elucidates that the autonomy of the judiciary has been compromised due to ambiguous appointment procedures, institutional dynamics, and presidential dominance. Dhavan asserts that public trust is fundamental to judicial legitimacy and that judicial independence is correlated with public trust.

This study is related to my research because it demonstrates the political influence in the judiciary and its impact in its independence. Dhavan's viewpoint, while sensitive, predominantly pertains to events occurring until the mid-1970s. My research focuses on recent developments in the judiciary over the past ten years.

6) Sorabjee, S. J. (2008). Bill of Rights: Judicial Approach, Principles of Interpretation and Remedies - The Indian Experience. In B. Dua, M. P. Singh, & R. Saxena, *Indian Judiciary and Politics: The Changing Landscape* (pp. 107-119). Manohar.

Sorabjee (2008) emphasize on how the Indian court has changed and what people think about and use their constitutional rights. This is mostly because the court has interpreted Article 21 broadly and set up Public Interest Litigation (PIL). He says that the court is the Constitution's moral guardian because it protects human rights and limits political power. The Constitution is the general will of the people.

This study is very important for understanding how judiciary has changed from a formalist interpreter to an active supporter of social justice, especially for those that are less fortunate.

It is relevant to my research because it shows how judicial interpretation can strengthen or change the legitimacy and independence of the judiciary in a democratic setting.

Although Sorabjee has supported the judiciary's activist approach, but he fails to fully examine political issues that have undermine the legitimacy of this activism. By examining the benefits and drawbacks of judicial intervention in politically sensitive matters, my research seeks to investigate this issue.

7) Singh, M. P. (2008). Inconclusive Overview of Judicial Activism in India. In B. Dua, M. P. Singh, & R. Saxena, *Indian Judiciary and Politics: The Changing Landscape* (pp. 121-141). Manohar.

Singh (2008) observed that how the judiciary's role is changing, specifically how the Supreme Court is getting more involved in the governance of our country through public interest litigation (PIL) and stepping into the human rights, environmental protection, and electoral cases. He states that judicial activism is a consequence of the failure of executives and legislatures to deal with important public issues. Due to this the judiciary has been expanding its interpretive role to hold the constitutional principles.

This study is essential because it studied judicial activism in the context of constitutional and political setting. It shows how the court has tried to fix problems caused by bad governance. Singh's analysis is especially relevant now since people see courts as not just interpreting the law but also making policy and deciding what is right and wrong. This raises academic

debates between the legitimacy of institutions and the separation of powers in the constitutional democracies.

This paper talks about how political factors affect the judges' decisions, especially when courts are enacting laws. Singh studies show that the judicial activism is changing responding to the political and social pressures.

A big problem with Singh's paper is that he doesn't think enough about the ideological bases that can affect how judges decision-making process. The paper talks about how judges respond to presidents who don't do anything, but it doesn't go into enough detail about how political ideology, class interests, or judicial appointments might affect the judicial decision-making process. It also doesn't look at how judges act differently in different circumstances, such as after appointment and before retirement. These areas are important for figuring out whether judicial activism supports universal constitutional goals or favours the people in power or from whom the judge will derive benefit.

5. OBJECTIVES OF THE RESEARCH

- To study on the politicization of the judiciary and its administration of justice.
- To come with suggestion to enhance the judicial integrity and public trust.

6. HYPOTHESIS

Political inclination of judges, if any, can have an influence on their decision-making process within the higher judiciary.

7. RESEARCH QUESTIONS

1. How can the Indian higher judiciary systematically define and find "political inclination"?

2. How much do judges in India's higher courts let their political inclination affect their decisions?

3. What are the effects in the society when judges in India are influenced by politics?

8. RESEARCH METHODOLOGY

This study employs doctrinal and case study analysis. There will also be focus on court rulings and administrative actions of the higher judiciary as well as the executive. The study will also cater into the issues of judicial independence, constitutionalism and judicial decision making process. The research technique employed in this study is meant to look whether higher judiciary judges' have any political inclination or not and if so then whether the decision-making process runs opposite to the established norms of justice and if the answer is assertive, then to analyses how the conduct is detrimental to the principle of justice.

The study analyses academic literature, judgements and individual case studies to study the judicial decision making process of judges like Ranjan Gogoi, Dipak Misra, and Arun Kumar Mishra and analyse its effect into the judicial system.

The primary source of this research are the most important decisions made during the last 10 years by Justice Ranjan Gogoi, Justice Dipak Misra, and Justice Arun Kumar Mishra when they were in judgeship of either High Courts or Supreme Court.

The study may employ interviewing methods to discover on how people perceived these judges' decision-making process, whether political or in line with the principles of justice.

This study will also use information from other sources which may include various literature and research papers that are relevant to the theme of this research.

This study while using precise case study methods to look at the judgements, it will further analyse the behavior patterns of the selected judges to find out any source of suggestions on the political inclination of the judges and its relevance to the decisions. Research on Benefits After Retirement: It will look at benefits after retirement or taking on a government post or jobs. This will help us to find out whether there is any conflict of interest between judgements and the judges or not. We will use thematic analysis to look closely at the data on how quickly verdicts are reached, what judges say, and how court decisions tend to go. The investigation will investigate incidents where the court's decision may have been influenced by political beliefs or inclinations. A way to figure out which party the judge belongs to will be done by checking out the person's past before becoming judge of the higher judiciary. We pay close attention to what the judges say in public, who they are related to, and what political party they lean toward.

Responding to research questions

• RQ1: Clarifying Political Inclination: The major topic of study will be looked at by looking at current literature and legal documents to come up with a concept of "political inclination".

• RQ2: How Political Inclination Affects Decision Making: To answer the second question, we shall analyse the case laws and the conduct of judges after retirement. The study will look at court cases that deal with government policy, changes to the Constitution, and other matters that are politically charged.

• RQ3: Societal Consequences: The third topic will be answered upon considering judicial independence, principle of justice, and public trust of the case studies. The study will investigate the effects of the judgements and its effects on the judiciary. At this point, we may talk to people and find out what they think about the courts being apart from the government and their responsibility of protecting the Constitution.

Ethical Consideration

The study will be completely unbiased by just looking at public material, case facts, and legal reasoning. It will get rid of the need to rely on personal opinions, feelings, or any point of view that looks to promote or oppose a political party or philosophy. The goal is to make sure that the review is fair and based on legal research. The goal of this study is to add to the ongoing discussion regarding judicial independence by closely looking at how judges' political relationships affect the decisions they make. The purpose of this study is to fill up a big hole in the literature on the connection of judicial decision making process and political inclination of judges and its effect into the judiciary.

9. LIMITATION OF RESEARCH

The scope, methodology and practical viability of every research project has its own set of boundaries. This study is proposed to be based on doctrinal research methodology, which primarily depends on judicial rulings, constitutional principles, statutory provisions. One of the limitation of doctrinal research is that it restricts the study from addressing complex, personal or psychological dimensions of judicial decision-making process.

Further the study is restricted to a selected number of executive-sensitive cases, which may lack universal application.

10. TENTITIVE SCHEME OF CHAPTERS

The possible chapters in this research may be as follows: -

Chapter 1: Introduction, Research Framework, and Review of Literature

1. Statement of Problem
2. Research Gap Analysis
3. Objectives of the Research

4. Hypothesis
5. Research Questions
6. Contribution to Society
7. Research Methodology
8. Literature Review

Chapter 2: Politicization of the Judiciary and its Administrative System

1. Introduction
2. Politics in the Judiciary.
    1. Politicization of the Judiciary in the Emergency Period
    2. Using Anti- Terrorist Laws to tackle political oppositions
    3. Politics in Death Penalty Cases
    4. Politics in Judicial Administration
    5. Politics in Supreme Court of India
3. Political Inclination
4. Conclusion

Chapter 3: Case Study Analysis (Justice Ranjan Gogoi, Justice Dipak Misra, Justice Arun Kumar Mishra).

Chapter 4: Comparative Legal Analysis: Global and Indian Approaches to Judicial Independence and Political Inclination

- Political affiliations and judicial behaviour in the USA, UK, and other democracies
- Appointment and accountability mechanisms abroad

- Comparative insights: How other countries address perceived or real biases
- Lessons India can draw from global experiences

Chapter 5: Findings, Challenges and Way Forward

- Summary of key findings from the case studies and analysis
- Challenges in preserving judicial independence
- Reform proposals: appointment, transparency, and accountability
- Balancing judicial discretion with neutrality
- Suggestions for further research
- Conclusion

REFERENCES

1. Tikhe, S. (2022). Judges and Judicial Accountability. In V. Chitnis, *Judicial Process* (pp. 237-257). Aarti & Co.
2. Varhadi, R. (2022). Independence of Judiciary. In V. Chitnis, *Judicial Process* (pp. 31-52). Aarti & Co.
3. Thool, C. (2022). Independence of Judiciary - Need for Reforms. In V. Chitnis, *Judicial Process* (pp. 53-73). Aarti & Co.
4. Verney, D. V. (2008). The Struggle Over Judicial Review: Supreme Court and Limited Government. In B. Dua, M. P. Singh, & R. Saxena, *Indian Judiciary and Politics - The Changing Landscape* (pp. 41-72). Manohar.
5. Dhavan, R. (2008). Governance by Judiciary: Into the Next Millenium. In B. Dua, M. P. Singh, & R. Saxena, *Indian Judiciary and Politics: The Changing Landscape* (pp. 73-105). Manohar.

6. Sorabjee, S. J. (2008). Bill of Rights: Judicial Approach, Principles of Interpretation and Remedies - The Indian Experience. In B. Dua, M. P. Singh, & R. Saxena, *Indian Judiciary and Politics: The Changing Landscape* (pp. 107-119). Manohar.

7. Singh, M. P. (2008). Inconclusive Overview of Judicial Activism in India. In B. Dua, M. P. Singh, & R. Saxena, *Indian Judiciary and Politics: The Changing Landscape* (pp. 121-141). Manohar.

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